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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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THOMAS HAROLD STIGER,

Petitioner,

*versus*

JODY R. UPTON,

Respondent.

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CIVIL ACTION NO. 1:08-CV-254

**MEMORANDUM ORDER OVERRULING PETITIONER’S OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Petitioner Thomas Harold Stiger, an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends that the above-styled petition should be dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge’s Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes Petitioner’s objections are without merit.

In his objections, Petitioner asserts that his claim is based on newly discovered evidence. However, the factual predicate of the claim was known to him or could have been discovered through the exercise of due diligence at the time of trial. Further, while a claim of newly

discovered evidence might potentially allow Petitioner to proceed with a motion to vacate sentence brought pursuant to 28 U.S.C. § 2255, this court lacks jurisdiction to consider a § 2255 motion because Petitioner was not convicted in this district. Petitioner has not satisfied the criteria required to support a claim brought under 28 U.S.C. § 2241 pursuant to the savings clause of § 2255. *See Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001).

**ORDER**

Accordingly, Petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Sherman, Texas, this 5th day of March, 2009.

A handwritten signature in cursive script, reading "Marcia A. Crone".

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE